

Court to Decide Doctor's Role In Cig-Cancer Case

Ruling Due Today on Whether Physician Can Give Definite Cause of Disease; Man Sues Firm

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A snag which developed yesterday in the Cigarettes vs. Lung Cancer case might bring the entire proceeding to a sudden legal halt in Federal Court today.

Key question at issue: Is any doctor competent enough to say, for sure, that heavy smoking can indeed cause lung cancer?

Attorney Earl F. Reed, counsel for Liggett & Myers Tobacco Company, the defendant in the case, says that no doctor can so say.

But Attorney James P. McArdle, representing Otto Pritchard, 61-year-old Brookline carpenter, who had a lung removed here in December, 1953 because of lung cancer, says that medical scientists can cite the cause.

At 10 a. m. in Federal Judge John L. Miller's courtroom, the issue may be decided.

Jury Not Present

If Judge Miller rules in favor of the tobacco company stand, the jury of seven women and five men probably won't be allowed to hear medical testimony linking cigarette smoking and lung cancer. It could wreck the Pritchard case, and have far-reaching results in similar cases.

None of the jury will be within earshot as the lawyers argue their stand before Judge Miller. Only after a decision is reached will the jury be brought back in.

The unusual turn of events turned up when court adjourned yesterday and Attorney Reed made his objection before Judge Miller after the jury was dismissed.

A preliminary hearing, with scientists testifying before Judge Miller with no jury around, may examine the question as to whether anyone can say that smoking is a cause of lung cancer.

Specifically, Mr. Pritchard charges that smoking cigarettes, mostly Chesterfields, caused his lung cancer.

He said he smoked about a pack or pack and a half a day for about 25 to 30 years, since he was 14 years old.

After his lung operation on December 11, 1953, he stopped smoking completely.

In his opening statement, running half an hour, Mr. McArdle declared that Mr. Pritchard is seeking damages because if he had known what was in Chesterfields he would not have smoked them.

Liggett & Myers, said the attorney, is responsible because the company's advertising led him to believe there was nothing harmful in them.

The firm continued to advertise in this way, according to Mr. McArdle, even after it became medically known that cigarettes contained harmful ingredients.

The Guilty Agent

He asserted that tarry compounds in the smoke, only 20 per cent of which are exhaled, are to blame. The 80 per cent of the tar concentrates in the smoke lodge in the lungs and they are "the guilty agent" in causing lung cancer, he maintained.

The attorney promised to bring expert witnesses to testify that excessive cigarette smoking causes the kind of lung cancer Mr. Pritchard had.



OTTO PRITCHARD

About 30 cigarettes a day.

He accused the cigarette firm of "deceitful advertising." By the late 1940's science was already pointing to cigarettes as a cause of lung cancer, but the company didn't act, said Mr. McArdle.

Mr. Reed, in a 15-minute statement, denied that the cigarettes caused Pritchard's lung cancer.

Mr. Pritchard, he said, engaged in occupations (carpentry and metal working) which show high incidence of lung cancer.

According to Mr. Reed, the medical profession does not know what causes lung cancer. He, too, promised to bring in experts, to prove that fact.

Termed as Riddle

Lung cancer "is the great riddle of the medical profession today."

"He's got to show you that cigarettes caused his lung cancer," Mr. Reed told the jury.

Mr. Pritchard, wearing thick glasses and dressed in a blue double-breasted suit, tan socks and tan shoes, spent most of the afternoon on the witness stand.

He was followed by his wife, Mabel, a tall, heavy-set woman, her face flushed and nervous taking the stand for the first time.

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